INTERACTIVE MEDIA ENTERTAINMENT AND GAMING ASSOCIATION, INC. v. ATTORNEY ... THE UNITED STATES Doc. 12 Att. 9

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Statement of Deputy United States Trade Representative John K. Veroneau Regarding U.S. Actions under GATS Article XXI

05/04/2007

WASHINGTON, DC - The Office of the United States Trade Representative today informed the World Trade Organization (WTO) it intends to clarify its WTO commitments with respect to Internet gambling services.

The United States is invoking procedures under Article XXI of the General Agreement on Trade in Services (GATS) in order to clarify its commitment involving "recreational services," which was interpreted in the course of WTO dispute settlement as including a U.S. commitment to allow Internet gambling services.

"U.S. laws banning interstate gambling have been in place for decades. Most WTO Members have similar laws. Unfortunately, in the early 1990s, when the United States was drafting its international commitments to open its market to recreational services, we did not make it clear that these commitments did not extend to gambling. Moreover, back in 1993 no WTO Member could have reasonably thought that the United States was agreeing to commitments in direct conflict with its own laws," said Deputy United States Trade Representative John K. Veroneau.

"Neither the United States nor other WTO Members noticed this oversight in the drafting of U.S. commitments until Antigua and Barbuda initiated a WTO case ten years later. In its consideration of this matter, the WTO panel acknowledged that the United States did not intend to adopt commitments that were inconsistent with its own laws. However, under WTO rules, dispute settlement findings must be based on the text of commitments and other international documents, rather than the intent of the party. The United States strongly supports the rules-based trading system and accepts the dispute settlement findings. In light of those findings, we will use WTO procedures for clarifying our commitments."

Background:

In the course of a dispute originally filed by Antigua and Barbuda in 2003, the United States' GATS schedule was found to have included a market access commitment covering Internet gambling based outside of the United States. This finding was a result of imprecision in the drafting of the 1994 U.S. GATS schedule, combined with the application of formal treaty interpretation rules under which a country's intent is not determinative. In fact, as even the WTO panel recognized, gambling or betting services are generally prohibited or highly restricted in the United States for reasons of public morality, law enforcement and protection of minors and other vulnerable groups, and the United States never intended to make a GATS commitment covering gambling.

The dispute has now completed the compliance phase, and the report of the compliance panel is scheduled to be adopted by the WTO Dispute Settlement Body (DSB) on May 22, 2007.

In light of these developments in the WTO dispute, the United States has decided to make use of the established WTO procedures to correct its schedule in order to reflect the original U.S. intent – that is, to exclude gambling from the scope of the U.S. commitments under the GATS. The GATS provides that when a Member modifies its services schedule, other Members who allege they will be affected by this action may make a claim for a compensatory adjustment to other areas of the GATS schedule. However, since no WTO Member either bargained for or reasonably could have expected the United States to undertake a commitment on gambling, there would be very little, if any, basis for such claims.

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